

THE KANSAS PORT OF ENTRY SYSTEM

by

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PREFACE

Recently much has been heard about the Kansas port of entry system and a great many words have been said and written both praising and condemning it. Thus far, no attempt has been made to present an objective study of the system, its inception, operation, and growth. This present work is an attempt to partially fill this need. The study is made as objective as possible because of its importance not only to Kansas but to the entire nation as well. Much has been written on this subject so the student of the problem is faced with the task of sifting the grain from the chaff.

The material used in this study was obtained largely from the files of the Research Department of the Kansas Legislative Council, from interviews, and correspondence and from miscellaneous publications and speeches on the subject. Magazine articles were found to be of little value.

Indebtedness is acknowledged to the state officials of Kansas for their kind cooperation in this study. Thanks are due to the National Highway Users Conference, the various other organizations and individuals who are quoted, and the state officials of other states who have

given of their time and knowledge.

Thanks are also due to the members of the department of History and Government of Kansas State College; and particular thanks should go to Dr. A. Bower Sageser, major instructor, for his advice and assistance throughout this study.

CHAPTER I

BACKGROUND OF THE LAW AND ITS PASSAGE

The port of entry law in Kansas came as a direct result of an effort to check gasoline bootlegging. Several legislative and administrative steps were taken, the first of which became effective in May, 1933. Inspectors were stationed at all oil refineries within the state and thus a check was made on their operations. Under the same arrangement all trucks carrying liquid fuels were required to secure a special liquid fuel carriers license. A system of ports of entry was set up through which these fuel carrying trucks must "clear"; that is, they were forced to stop and secure permits to go on.¹

The law operated very effectively to check the operations of the gasoline bootleggers, and both the tax collection agencies and the responsible oil producers of the state seemed to find it satisfactory. From the original experiment the port of entry system was enlarged by a

¹ The Kansas Port of Entry Law, pamphlet published by the National Highway Users Conference, Washington, D. C., Nov. 1934, 7.

special session of the state legislature in 1933.²

Kansas officials saw in the port of entry system a method which could be used to assure the collection of the ton-mileage tax which had been initiated by Kansas in 1931, as well as the gasoline tax.³

Kirke W. Dale, a lawyer, Republican, and Chairman of the Highway Committee in the Senate, introduced the bill on November 6, 1933 as Senate Bill Number 104; it was entitled, An act relating to transportation by motor vehicles over the public highways of Kansas, supplementary to chapter 229, Laws of Kansas, 1933 Regular Session.⁴ On November 7, 1933 the bill was read for the second time and referred back to the Senate Committee on Highways.⁴ The same day it was reported back to the Senate by Senator Dale and was recommended for passage.⁵ The bill was reported and recommended for passage by the Committee of the Whole on November 9, 1933; two or three words were slightly amended but there was no change made in the meaning of the law.⁶ Senator Dale then moved that the rules be suspended,

² Fern Gibson, Kansas Ports of Entry, report prepared for Kansas Chamber of Commerce, Sept. 1940, 1.

³ Personal interview with Dr. F. H. Guild; Director, Research Department; Kansas Legislative Council.

⁴ Senate Journal, State of Kansas, Special Session 1933, 45.

⁵ Ibid., 57 and 73.

⁶ Ibid., 86.

an emergency declared, and a vote taken. The motion passed; the vote was 27 yeas, no nays, and 13 absent or not voting. Not a single vote was cast against the bill in the Senate and it passed as amended.⁷

In the House a similar bill was introduced on November 6, 1933 as House Bill Number 128 by J. W. Blood of Wichita, a lawyer, and a Republican.⁸ This bill was referred to the Roads and Highways Committee on November 7, 1933;⁹ and was reported back by the Committee on November 15 with the recommendation that it should not be passed.¹⁰

The House bill was dropped because the Senate bill was reported on November 10 to the House by the Secretary of the Senate as having been passed by the Senate, and thereupon it was read for the first time in the House.¹¹ It was read the second time and referred back to the Committee on Roads and Highways¹² which committee reported it back as amended by the Committee of the Whole in the House.¹³

7 Senate Journal, State of Kansas, Special Session 1933, 81-82.

8 House Journal, State of Kansas, Special Session, 1933, 56.

9 Ibid., 78.

10 Ibid., 143.

11 Ibid., 108.

12 Ibid., 113.

13 Ibid., 195.

On November 20, the Committee of the Whole in the House reported back Senate Bill 104 and recommended its adoption but amended it in line 6, section 4 by inserting after the word "inspection" the following: "Provided, However, that the provisions of this act shall not apply to motor carriers of passengers on regular routes between any city of this state and an adjoining city of a neighbouring state where the operations are not conducted outside the limits of the city in this state, and are a part of the general street railway transportation system in said city." After inserting this provision, which was intended to exempt the street railway system of Greater Kansas City, the Committee of the Whole House referred the bill to the Committee on Roads and Highways as has been before stated.¹⁴

The bill was read the third time and a vote was cast on November 21. The vote was: 84 yeas, five nays, and 35 absent or not voting. The five representatives voting against the bill were: E. E. Hilton of Hunnewell, a merchant and Democrat; W. A. Mansueth of Hill City, a farmer-stockman and Democrat; W. A. Newkirk of Kiowa, a farmer-stockman and Democrat; George Templar of Arkansas City, a

¹⁴ House Journal, State of Kansas, Special Session, 1933, 182.

lawyer and Republican; and H. F. Wesche of Barnes, a farmer and a Democrat.¹⁵

On November 21 the House notified the Senate that the bill had been passed as amended.¹⁶ The following day the Senate notified the House that it concurred in the House amendments,¹⁷ and the bill was signed by the Speaker and Clerk of the House and sent to the Governor, November 23, 1933.¹⁸ The bill was reported back to the Senate as being correctly engrossed on November 22.¹⁹ On November 23 it was reported by the Committee on Enrolled Bills as being correctly enrolled and was signed by the President and Secretary. Dale moved that 250 copies of the bill as enrolled be printed--the motion prevailed.²⁰ Governor Landon signed the bill on November 24, 1933.²¹

As passed by the legislature the law contained some fifteen sections. It provided for the establishment of the ports of entry, that all trucks must stop, and that the administration of the law was to be under control of a "Port of Entry Board" which is further described in the next chapter. The rates for trucks of various size were also established by the law (one and one-half cents per mile

15 House Journal, State of Kansas, Special Session, 1933, 200-201.

16 Senate Journal, State of Kansas, Special Session, 1933, 154.

17 House Journal, 202.

18 Senate Journal, 186.

19 Ibid., 174.

20 Ibid., 186.

21 Ibid., 202.

for vehicles of 15,000 pounds or less, two cents per mile for vehicles from 15,000 to 25,000 pounds, and three cents per mile for those over 25,000 pounds). Also provisions were made for the compulsory carrying of insurance on all vehicles. The remainder of the law listed the provisions for the operation and administration of the law.²²

A study of the newspapers at the time of the bill's introduction and passage shows that very little interest was expressed in the bill. It was considered a "minor" measure and the only comment made other than the perfunctory reporting of its progress through the legislature was a statement by Senator Dale in which he said, "Intelligent and cooperative administration of the laws governing bus and truck traffic from outside the state through this board will, we believe, bring in an additional revenue of \$150,000 a year without additional cost."²³

According to Senator Dale, who introduced the bill in the Senate, the bill was introduced at the request of Governor Landon in accord with the efforts being made at that time to secure all possible revenue from motor vehicles carrying and transporting property interstate. In regard to its objectives at that time Senator Dale wrote:

22 General Statutes of Kansas, 1935; chapter 66, Article 13, Motor Carriers, 1631-1636.

23 Topeka Daily Capital, November 23, 1935.

At that time the chief objectives of the bill were (1) to attempt to stop the unlawful hauling of gasoline into the State of Kansas (2) to try and enforce the collection of the gasoline tax (... bootlegging of gasoline was generally charged at that time) (3) to enforce the collection of the Gross Ton Mileage Tax, (4) to force carriers to qualify with the Corporation Commission for permits, etc., and (5) to secure generally the collection of all fees and taxes upon vehicles transporting merchandise into, in, and through the state. The purpose of the act was not to create any state barriers nor to prevent any legal traffic into and through the state.²⁴

However, Senator Dale was not the originator of the idea. The "father" of the port of entry was Charles M. Steiger of Topeka. Steiger was at the time attorney for the Kansas Corporation Commission. According to him there were two reasons for his drafting the law. In the first place he felt that the state was losing considerable revenue each year due to evasions of the gasoline and ton-mileage taxes; and in the second place he was considerably agitated at the lack of regulation of truck and bus traffic on the highways.

In particular, the impossibility of enforcing Kansas insurance regulations and requirements for interstate truckers was causing the Kansas Corporation Commission considerable embarrassment. Steiger stated that almost every day there were cases of accidents on the highways of Kansas involving commercial carriers who had no insurance.

The immediate cause of the law was a rather gruesome

24 Letter from Kirke W. Dale to author, June 14, 1941.

accident which happened near Topeka at the start of the special session of the 1933 legislature. An out-state truck hit and killed a woman, and since the truck owners carried no insurance the driver got in his truck and drove off; the Corporation Commission was unable to do anything about it. According to Steiger this started him to work on the idea that he had been mulling over for several weeks, and the result was the Kansas port of entry law. He says himself, "I don't know if that accident hadn't happened whether we would have a port of entry or not".²⁵ Steiger also stated that it was his hope in drafting the law that out of state trucks making any considerable use of the Kansas highways would register with the State Corporation in the same manner as intra-state trucks rather than operate under the law.²⁶ Senator Dale was asked to introduce the bill because of his position as chairman of the Highway Committee and also because a relative of his had been injured in a similar accident only a short time before.²⁷

Representative Blood, who introduced the bill in the House, also assisted to some extent in its drafting. He was interested in the trucking business, in finding a more satisfactory method of collecting the ton-mileage tax, and also in catching the gasoline tax evaders.

25 Statement by Charles M. Steiger in personal interview with author.

26 Ibid.

27 Ibid.

Blood made the statement that only about an hour was spent discussing the bill in the House before it was passed, and that no very great opposition was raised. Voicing his own opinion as to the purpose of the law, Representative Blood said: "In substance--it is purely a tax collecting law: also has some tendency to safety."²⁸

Another reason for the passage of the port of entry law was given by Floyd Strong, present secretary of the Port of Entry Board. Strong said that one of the chief reasons for the passage of the act was not to increase state revenues but rather to provide a more equitable distribution of the highway maintenance burden. Of course, Strong was not connected with the passage of the bill and since a considerable part of the task of defending the ports has since fallen to him, his explanation may be a later rationalization.²⁹

S. A. Fones, formerly Secretary of the Kansas Highway Federation, made the statement that the system was established in order to help pay for the rapid deterioration of Kansas highways due to commercial traffic.³⁰

Kansas Business made the remark that:

It is interesting to know that licensed and well-informed truck operators proposed the fundamental

28 Letter from John W. Blood to author, June 28, 1941.

29 Statement by Floyd Strong in personal interview.

30 Memorandum from Sam A. Fones to Governor Ratner, in the files of the Research Department of Kansas Legislative Council.

provisions of the 'Port of Entry' law and sponsored it through the Legislature. They are paying to use the highways and they want other commercial operators to do likewise.³¹

Newspaper comment after the law was put in operation tended to give undeserved credit for the passage of the law to Governor Landon.³²

All in all it would seem that a double purpose, namely; better regulation of highway traffic and increased revenue, lay back of the initiation of the port of entry system. Which purpose was the more important is rather doubtful and different persons assigned greater weight to different reasons. However, the available evidence seems to indicate that the revenue idea was uppermost at the time of the bill's passage and that the regulation idea gained in importance as the ports were operated.

The opposition to the ports at the time also appeared to be based on two reasons: that they were unconstitutional and that they were trade barriers. The only attorney in the House to vote against the law was George Templar of Arkansas City. In regard to it he said:

There is much to be said in its favor, namely the regulation of traffic and the collection of

31 Kansas Business, March 1934, 10.

32 See especially, Million Dollar Tax Leak Ended by Landon Law, Topeka Daily Capital, April 1, 1934; and Gas Tax Revenue Proves Landon's Plan Justified, Daily Capital, June 1, 1934.

taxes, both ton-mileage and gasoline. ...my reasons for opposing it were generally founded on the theory that we cannot, in the long run, profitably establish barriers on the state line and expect to continue and create good will between the people of different states. Our means of travel and mode of communication are such today that we mingle quite freely with all the surrounding communities and states. When laws of this kind are passed it is bound to restrict that intercourse and eventually lead to misunderstanding and illwill.³³

Elmer E. Hilton, another representative who voted against the bill, expressed a belief that it was unconstitutional and also that it would cause bad feeling in other states.³⁴

Some quarters which have opposed the system have maintained that it was a creation of the railroads intended to embarrass the trucking interests.³⁵ As far as could be determined this is not true. While the railroads undoubtedly do not hesitate to favor legislation which is restrictive upon trucking, there is no evidence to prove that they were interested in the port of entry legislation or had anything to do with its inception.

From its background and the history of its passage one would not have suspected that the Kansas port of entry system was to become the center of the storm of protest which has since arisen over it.

33 Letter from George Templer to author, June 11, 1941.

34 Letter from Elmer E. Hilton to author June 17, 1941.

35 See, Ports of Entry And Other Highway Barriers, bulletins published by the National Highway Users Conference, Washington, D. C.

CHAPTER II

ADMINISTRATION OF THE LAW

A study of the statutes creating the port of entry system is of little value unless a study is also made of the system in operation.

Administration of the Kansas port of entry law was placed in the hands of a board known as "The Port of Entry Board". Originally this board was composed of the director of highways, the chairman of the corporation commission, and the director of the Kansas state department of inspections and registrations.¹ However, this set-up was changed slightly in 1937 when the department of inspections and registrations was abolished and the director's place on the Port of Entry Board was taken by the director of revenue.²

Kansas has now some 74 ports of entry, few of which are more than 20 miles apart. Kansas laws authorize the Port of Entry Board to establish as many ports as it deems necessary but none of them are to be more than 15 miles from the border.³ It should be noted that a greater number

1 General Statutes of Kansas 1935, chap. 66, art. 13, 1631-1635.

2 1939 Supplement to General Statutes of Kansas 1935, chap. 74, art. 24, 398.

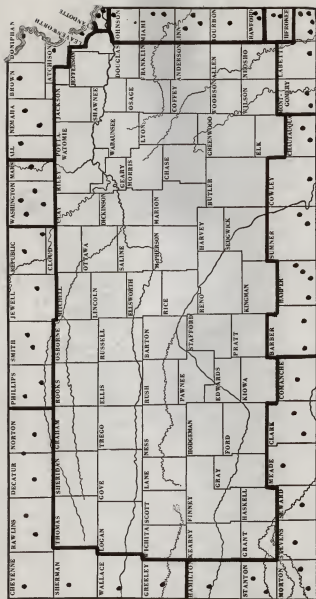
3 General Statutes of Kansas 1935, chap. 66, art. 13, Motor Carriers, 1631-1635.

EXPLANATION OF PLATE I

Location of the Kansas Ports of Entry. Outlined areas show ten border patrol districts of the Port of Entry system.

Dots designate location of the individual ports (From Kansas Ports of Entry, p. 7).

PLATE 1



of ports does not mean a more obnoxious administration of the law, but rather a more convenient one, since trucks are thus enabled to use more of the highways leading into the state.

There are 23 stations between Kansas and Missouri. They are located at: Elwood, Atchison, Leavenworth, Kansas City (four stations), Overland Park, Martin City, Louisburg, Dexter, Trading Post, Pleasanton, Prescott, Fort Scott, Arcadis, Mulberry, Pittsburg (two stations), Opolis, Crestline, Galena, Baxter, and Baxter Springs. Between Kansas and Oklahoma are the same number of stations located at: Treece, Chetopa, Coffeyville, Coney, Chautauqua, Elgin, Arkansas City, South Haven, Caldwell, Bluff City, Manchester, Waldron, Corwin, Kiowa, Hardtner, Coldwater, Sitka, Entlewood, Meade, Liberal, Hugoton, Rossa, and Elkhart. The seven stations between Kansas and Colorado are located at: Sanders, Johnson, Coolidge, Tribune, Weakin, Kanorado, and St. Francis. On the Nebraska line there are 21 stations located at: Atwood, Herndon, Oberlin, Morcatur, Norton, Woodruff, Phillipsburg, Smith Center, Lebanon, Mankato, Hardy, Belleville, Mahaska, Hollenburg, Hanover, Morrowville, Marysville, Summerfield, Seneca, Sabetha, and Reserve.⁴

These ports are divided into major ports and subports.

⁴ Fern Gibson. Kansas Ports of Entry, report prepared for the Kansas Chamber of Commerce, Sept. 1940, 9. (Hereafter cited as Gibson, Kansas Ports of Entry.)

There are about 50 major ports located on main traveled highways, operating 24 hours a day and carrying by far the most traffic. Each major port employs three or more full-time state employees who receive a maximum salary of \$125 a month. The buildings and land on which these ports are located is either owned or leased by the state.⁵ A good example of the major ports is the Galena port on U. S. Highway 66, close to the Missouri line. During 1939 the Galena port carried more traffic than any other route in Kansas, clearing 18,575 trucks during the second quarter alone.⁶

For greater convenience to truck operators subports have also been established. These are mainly on short-cut routes or highways carrying only a small amount of interstate traffic, and are usually established at filling stations, stores, etc. The operators of these ports work only part time and receive compensation from the state in proportion to the number of trucks cleared. The amounts range from \$10 to several times that much per month. The subport at Elgin in Chautauqua County offers a good contrast to the Galena major port. At the Elgin port only five trucks were cleared during the last quarter of 1939.⁷

A Border Patrol of 13 members assists the port officials in the administration of the law. The Kansas

5 Ibid., 8.

6 Ibid., 8-9.

7 Ibid., 9.

border has been divided into ten districts in which the patrolmen must search the highways and byroads for violators of the port of entry law. They also supervise the activities of the ports in their own districts.⁸

Expenses for operation were first paid, as required by law,⁹ by the department of inspections and registrations (now a part of the new commission of registration and taxation)¹⁰ and by the state corporation commission. The former paid all salary expenses (which amounted to about \$9,500 a month) while the latter paid the cost of clerical work, postage, etc. At the end of each month the total expenditures for ports of entry were compiled and allocated among these two agencies and the state highway commission.¹¹

Acting under their authority to distribute the cost of operation the Port of Entry Board made a change in this arrangement and from March of 1936 to March of 1940 this total expense was borne jointly by the two departments, two-thirds by the corporation commission and one-third by the inspections department. The cost to the corporation commission is actually only 10 percent of its two-thirds,

⁸ Ibid., 2.

⁹ General Statutes of Kansas 1935, 66-1311, 1635.

¹⁰ See page 12.

¹¹ Memorandum, RE: Port of Entry, February 2, 1939. In the Research Department of the Kansas Legislative Council.

as the commission is re-imburshed by the highway department for 90 percent of its expenditures. The one-third share of the inspections department comes from a 3 percent allowance of gross collections of the gasoline tax for administration.¹²

By administrative agreement since March 1, 1940, the cost of operation has been paid jointly by four state departments in the following percentages: state highway department, 60 percent; commission of revenue and taxation, 32 percent; state corporation commission, six percent; and vehicle department, two percent.¹³ The revenues derived from the operation of the ports of entry are allotted among the various departments by the state corporation commission in proportion to the amount of the cost borne by them.¹⁴

In January 1940 there was a total of 202 permanent inspectors and six temporary inspectors. These may be broken down according to salary received as follows:¹⁵

12 Ibid.

13 Memorandum, RE, Kansas Ports of Entry, January 24, 1941; In the Research Department of the Kansas Legislative Council.

14 General Statutes of Kansas, 1935, chap. 66, art. 13, Motor Carriers, 1631-1635.

15 Memorandum, RE: Port of Entry Employees, February 14, 1940; In the Research Department of the Kansas Legislative Council.

Table 1. Showing the number of inspectors and the salaries they receive.

Inspectors	Salary per month
124	\$125.00
3	120.00
26	100.00
1	90.00
2	87.50
3	80.00
14	75.00
4	60.00
6	50.00
1	35.00
4	30.00
10	25.00
1	22.50
2	15.00
1	10.00

In addition, the Superintendent of the ports of entry (at present Mr. Phil Hawkins) and his secretary are included on the port of entry payroll. These jobholders are political appointees and hold office by being in good grace with the party in power. As pointed out by Dr. F. H. Guild, while the ports were not established for political reasons, because of political pressure they may possibly be kept even if evidence indicates that they should be abolished.

All trucks coming into the state must stop at the ports of entry, be inspected, and pay any required fees. Owners of vehicles licensed in Kansas are required to make regular deposits with the commission, out of which the ton-mile taxes due (five mills per gross ton mile for

trucks registered in Kansas)--as reported by the ports of entry--are taken. Actual collection of ton-mile taxes is made at the ports only from out-state trucks.¹⁶

Each port makes daily reports and mails them to the Topeka office. Included in these reports are three things: (1) The total number of KCG miles (miles traveled in Kansas by trucks licensed in Kansas). Taxes collected at the ports are on road distances while those paid to the State Corporation Commission are on truck miles. (2) The origin and destination of shipment. (3) Complete routing of the vehicle in detail.¹⁷

Port officials are further advised that all telephone calls (sometimes necessary in straightening out details) must be paid by the operator and that each trucker must stop both entering and leaving the state. Inspectors are warned to be sure that each trucker presents a letter or certificate signed by an insurance company official certifying that the truck carries insurance. Inspections are to be made on Kansas licenses as well as on out-state trucks. No tax is collected on vehicles leaving the state, unless they owe for operation within the state. Empty trucks entering the state pay only for the miles traveled

16 "Rules, Regulations, and Interpretations of The Law for Officials, Inspectors, Deputies, and Employees of The Port of Entry Board," mimeographed release of The Port of Entry Board, 1.

17 Ibid., 2.

with a load.¹⁸

Motor vehicles carrying tools belonging to the owner of the vehicle are exempt--this includes oil field equipment. Owners of livestock are exempt and so are the producers of farm products. Exemption is also made for private carriers being used only when no contract or common carriers are available. Practically all milk, gravel, and sand haulers are exempt, and all federal and state trucks, as well as all school busses.¹⁹

The 74 ports of entry are now charged with the following duties, some of which were included in the original bill, others which have since been added:

(1) Ton-mileage tax. Inspection of commercial motor vehicles registered in Kansas for the assessment of the ton-mile tax by the state corporation commission, and the actual collection of a corresponding special tax on vehicles not registered in Kansas.

(2) Gasoline tax. (a) Collection of the state tax of three cents on each gallon of gasoline in excess of 20 gallons carried in the fuel tank of the vehicles entering the state. (This function was added by the 1937 session of the legislature.)
(b) Inspection and clearance of trucks transporting cargoes of liquid fuels (fee of 50 cents per truck).

(3) Safety regulations. Inspection of brakes, lights, etc. in ascertaining the carriers to be of "safe and roadworthy condition" as required by the Kansas law.

(4) Vehicle inspection. Verification of compliance with the Kansas laws regarding weight, length, size of load, safety devices, etc.

¹⁸ Ibid., 3-4.

¹⁹ Ibid., 7-9.

(5) Insurance. Examination of papers to determine whether vehicles have complied with state law requiring commercial motor carriers to carry public liability and property damage insurance with a company authorized to do business in Kansas.

(6) Liquor cargoes. Inspection and sealing of liquor cargoes both entering and leaving the state. (Fee, \$2.50 per truck). (Added by the legislature of 1935.)

(7) Quarantines. Enforcement of quarantine, etc. of the board of agriculture, entomological commission, and grain inspection department.²⁰

(8) Itinerate trucker law enforcement. This is a new law added by the 1941 legislature and the exact functioning of the ports in its enforcement is not yet completely certain.²¹

As to the efficiency of these functions carried on by the ports there is some variation. Cash collections at the Kansas ports of entry consist of receipts from three sources: (1) Special mileage taxes assessed against unlicensed motor carriers. These account for the major portion of the ports' cash collections; (2) Fees for inspecting and sealing gasoline cargoes (50 cents) and liquor shipments (\$2.50); and (3) State tax of three cents per gallon on all gasoline in excess of 20 gallons carried in the fuel tank of incoming vehicles. Revenues from these three items have totaled approximately \$200,000

20 Memorandum, RE: Kansas Ports Of Entry, January 24, 1941; In the Research Department of the Kansas Legislative Council.

21 For this law see: House Bill No. 218, Laws of Kansas enacted by the legislature of 1941--House, (not in compiled form).

during each of the last three fiscal years.²²

The number of trucks cleared through the ports has fluctuated but has on the whole shown a tendency to increase as may be noted from the following table:²³

Table 2. Showing the number of trucks cleared by years.

Year	: Number of trucks cleared
1933-34	260,548
1934-35	671,608
1935-36	778,939
1936-37	792,411
1937-38	736,037
1938-39	723,429
1939-40	875,512

At the same time the number of special permits (to out-state trucks paying the ton-mileage tax) issued has shown a decline as proven by figures for the last four years:²⁴

22 Memorandum, RE: Kansas Ports Of Entry, January 24, 1941, In the Research Department of the Kansas Legislative Council.

23 Gibson, The Kansas Port Of Entry Law, 10-11.

24 Memorandum, RE: Revenues From Selected State Taxes And Other Fiscal Data, September 12, 1940, from the Research Department of the Kansas Legislative Council, figures here from records on file in the Port of Entry department, Motor Carrier Division, Kansas Corporation Commission.

Table 3. Showing the number of permits issued by years.

Fiscal year ending June 30 : Number of permits

1937	194,027
1938	160,786
1939	156,745
1940	171,866

As to the collection of the ton-mileage tax it is divided into two different types of levies and each is collected in a different manner. The majority of the operators--whether citizens of Kansas or of some other state--are registered and licensed with the state corporation commission. A carrier registered with this state commission is required to keep a record of the vehicles he operates and to report to the corporation commission at the end of each month the miles he has traveled. The amount of the tax due in this case is determined by the mileage and the size of the vehicles operated.²⁵ For vehicles not registered in Kansas, ton-mileage taxes are collected at the ports of entry as has been described.

Of course, all taxes collected at the ports (fees

²⁵ Testimony of Floyd D. Strong before the Temporary National Economic Committee, printed in Hearings, part 29, Interstate Trade Barriers, 16016-16017.

excepted) are on interstate traffic. Only about one-sixth of the total ton-mile collections are made at ports, the other five-sixths is collected at Topeka on regular permit deposits, from traffic moving both inter and intra-state. The opinion of the state corporation commission is that one-half of the tax is collected on interstate commerce and it seems probable that a large part, though not all of it, is due to the port of entry system.²⁶

The total ton-mileage tax has shown a continued increase, while the revenue from the tax collected at the ports (from out-state truckers) has fluctuated considerably as can be noted from the following figures:²⁷

Table 4. Showing the cash collections and the total ton-mile collections by years.

Year:	Cash collections at ports:	Total ton-mileage collections
1934	\$ 67,914 ^a	\$ 482,523
1935	159,464	665,103
1936	208,760	988,559
1937	204,653	1,104,476
1938	167,565	1,148,913
1939	159,966 ^b	1,230,007 ^b
1940	192,364	1,329,211

^a Represents six month collection, tax becoming effective January 1, 1934.

^b Fees for inspection of liquor shipments were not segregated until 1939.

26 Memorandum, RE: Ports of Entry, February 2, 1939, In the Research Department of the Kansas Legislative Council.

27 Tables compiled from: Memorandum, RE: Revenues From Selected State Taxes And Other Fiscal Data, September, 12, 1940, Tables I and II, in the Research Department of the Kansas Legislative Council.

Just how much of the ton-mile taxes collected is to be attributed to the ports of entry is, of course, debatable. The Research Department of the Kansas Legislative Council has estimated that the largest amounts attributable to the ports were: \$560,000 in 1938, \$590,000 in 1939, and \$650,000 in 1940.²⁸ This estimate is admittedly faulty and has been made by considering the opinions of men closely connected with the administration of the ports. However, it is certain that considerable amounts may be attributed to the operation of the ports both directly and indirectly.²⁹ Kansas officials point out that many responsible interstate carriers would undoubtedly pay the ton-mile tax even if there were no ports of entry, but there would be many evasions by the occasional trucker and the like. Thus they maintain that the ports assure equal treatment of all concerned.³⁰

As was stated in the first chapter, the original ports of entry were established to regulate the gasoline traffic, and the present ports also have this as one of their functions. They have in this regard the double function of collecting the state tax of three cents on each gallon of gasoline in excess of 20 gallons carried in the fuel tank of the vehicles entering the state, and

28 Memorandum, RE: Kansas Ports Of Entry, Research Department of the Kansas Legislative Council, Jan. 24, 1941.

29 Personal interview with Dr. F. H. Guild, Director of Research Department, The Kansas Legislative Council.

30 Interviews with Dr. Guild and with Floyd Strong.

also must inspect cargoes of liquid fuel (fee 50 cents).³¹

All trucks transporting more than two barrels of liquid fuels must stop at a port whenever entering or leaving the state, whether empty or loaded. If the truck is a liquid fuel importing truck a sample is taken from each quantity transported for inspection purposes. A seal is also placed upon each compartment of the truck which must not be disturbed until delivery is made. All trucks transporting liquid fuels from the refineries in the state have similar seals placed upon them by inspectors located at the refineries.³²

The following tables show the amounts collected from fees for inspecting gasoline cargoes at the ports and from operation of the 20 gallon law:³³

31 See page 21.

32 The Kansas Port Of Entry Law, published by the National Highway Users Conference, Washington, D. C., Nov. 1934, 9. (Hereafter cited as The Kansas Port Of Entry Law.)

33 Memorandum, RE: Revenues From Selected State Taxes And Other Fiscal Data, Table II, Revenues Collected By Ports of Entry.

Table 5. Showing revenues resulting from gasoline cargo inspection fees and gasoline taxes collected at the ports.

Year:	Gasoline cargo inspection fees ^a	Gasoline taxes :(20 gallon law)
1933	\$ 5,836 ^b	-
1934	12,550	-
1935	12,810	-
1936	12,884	-
1937	13,313	-
1938	10,936	\$4,883 ^c
1939	9,310	4,573
1940	10,311	5,511

^a From the 50 cent inspection fee charged for inspection and sealing of liquid fuel cargoes.

^b Collected by registration offices established May 1, 1933.

^c Tax of three cents per gallon of motor fuel in excess of 20 gallons carried in the tank of motor vehicle. Added by the 1937 legislature, (Gen. Statutes 1939 Supplement, 55-320 to 55-524, Effective June 30, 1937.)

Inspection of gasoline cargoes is seemingly very thorough, though some drivers say they can "get by" if they "know the inspector". Efforts to evade the 20 gallon law are not so common since gasoline is just as cheap or cheaper in Kansas as in surrounding states.

Port officials and other state officers point to the gradual increase of gasoline tax receipts as being due in part to the activities of the ports of entry. This is undoubtedly true to some extent since through the 20 gallon law trucks are forced to buy in Kansas most of their fuel used in Kansas. However, they might be expected to do this anyway since gasoline, as has been pointed out, is no

more expensive in Kansas than in other states.

The following table shows the increase in gasoline tax receipts in Kansas.³⁴

Table 6. Showing gasoline tax receipts by fiscal years.

Fiscal year ending June 30 : Gasoline tax receipts	
1931	\$ 8,610,549
1932	8,036,820
1933	7,362,681
1934	8,241,438
1935	8,592,043
1936	9,018,938
1937	9,662,568
1938	10,275,459
1939	10,096,874
1940	10,054,484

At first glance it might appear that this increase has been due to the port of entry since an increase of a million dollars was made in the first year of operation of the ports.³⁵ However, critics of the system point out that in this same first year of operation the increase in gasoline consumption throughout the United States was 7 percent and while the increase in gasoline tax revenues in Kansas was 5.3 percent there were even greater increases in surrounding

34 Memorandum, RE: Revenues From Selected State Taxes And Other Fiscal Data, Table II, Revenues Collected By Ports Of Entry.

35 This refers to the calendar year when the increase was, according to the National Highway Users Conference, some \$1,025,246.34.

states. Increases for Kansas and surrounding states for the year 1934 were as follows:³⁶

Table 7. Showing the percentage increase in gasoline taxes in Kansas and surrounding states between 1933 and 1934.

	Percent	:	Percent
Missouri	3	Nebraska	9
Kansas	5.3	Iowa	9
Oklahoma	8	Colorado	13.3

The average increase in gasoline tax receipts in states surrounding Kansas was 7.9 percent. The figure of 5.3 percent increase in Kansas is reached by use of the following table which compares both total receipts and the change in exemptions.³⁷

³⁶ The Kansas Port of Entry Law, Highway Users Series: No. R1, National Highway Users Conference, National Press Building, Washington, D. C., November, 1934, 10.

³⁷ Ibid., 10.

Table 8. Showing figures used in arriving at the increase in Kansas gasoline tax receipts between 1933 and 1934.

	June 1, 1932 to: May 31, 1933	June 1, 1933 to: May 31, 1934	Change
Motor vehicle fuel tax collections	\$7,234,584.27	\$8,259,830.61	\$1,025,246.34
Motor vehicle fuel tax collections	\$2,889,602.79	\$2,399,424.39	\$-490,178.40
Total	\$10,124,187.06	\$10,659,255.00	\$535,167.94

In defense of the ports, however, Kansas officials maintain that regardless of the condition in other states, gasoline tax receipts in Kansas had shown a definite decline in the years just prior to the adoption of port of entry legislation but showed an immediate upswing for the fiscal year of 1933-34, the first year of operation of the Kansas ports of entry. In her study of the subject, Fern Gibson says that it was the increase of 5.3 percent in gasoline tax collections between the years of 1933 and 1934 that led to the enlargement of the port system in 1934.³⁸ While no substantiation for this can be found from Kansas officials it undoubtedly played some part.

As far as the enforcement of safety regulations and

³⁸ Gibson, Kansas Ports of Entry, 21.

vehicle inspection goes, the port officials are admittedly rather lax. In a survey made of the inspection of vehicles the National Highway Users Conference reports that the only actual inspection which was observed being made was confined to lighting equipment.³⁹ There is neither brake testing equipment nor scales at any of the ports, and the brake testing that is done is done by bringing the vehicle to a halt. Weight is determined by the registered capacity of the vehicle and the driver's statement as to weight.⁴⁰ It might be pointed out in this regard that instances are fairly common where carriers passed by ports of entry have been stopped by highway patrolmen inside of Kansas, weighed, and found to be greatly overloaded.⁴¹

The inspectors at the ports, when asked as to refusals of admission because of safety hazards, said that permission to proceed had been denied to only a few operators having trucks in obviously bad condition.⁴² All in all it would seem that in a great part the operator's word must be taken as to whether or not his vehicle is safe, though obviously unsafe features, such as, for example, lengths of pipe sticking far out beyond the rear of a truck, are pretty thoroughly checked.⁴³ Port officials admit that inspections

39 The Kansas Port of Entry Law, 7.

40 Ibid., 7, and personal interview with Floyd Strong.

41 Gibson, op. cit., 4.

42 Ibid.

43 The Kansas Port of Entry Law, 8.

are perfunctory but maintain that they at least result in eliminating the most dangerous vehicles from the highways of the state and they also point to the fact that more thorough inspections would involve greater losses of time by the truckers.⁴⁴

The time element does not seem to be important. The National Highway Users Conference has estimated that the longest delay at the ports runs from ten to 15 minutes and that a delay this long is unusual.⁴⁵ Floyd Strong, the Secretary of the Port of Entry Board, maintains that the time involved in clearing for even a strange trucker who has not been in the state before is only from two to three minutes, just long enough for the driver to make out his manifest and for the port officials to do the necessary checking of equipment.⁴⁶

Even in the case of a truck not meeting all the highway regulations as to length, load, and the like, the truck will probably not be denied entrance into the state. Considerable oil field machinery and agricultural machinery is moved over the highways of the state and much of it fails in one way or another to comply with the state laws. In order to use the highways for moving this sort of thing, the operator must stop at the port of entry and pay for a

⁴⁴ Gibson, op. cit., 20.

⁴⁵ Personal interview with Floyd Strong.

⁴⁶ Kansas Port of Entry Law, 9.

telephone call into Topeka to the state corporation commission. This commission then authorizes the port officials to issue a permit to the oversize vehicle and the permit is prepared from blanks with which every port is provided. The vehicle then proceeds on the highways escorted by a highway patrolman.⁴⁷ Thus it is apparent that the function of safety is not burdensome to truckers and that in this it is beneficial. There has been little or no objection to the ports because of their enforcement of safety regulations and vehicle inspection.

The enforcement of the regulations concerning insurance is considerably more thorough. As was stated before, one of the reasons for establishing the ports was to enforce state regulations on insurance.⁴⁸ A trucker or bus driver coming up to a port must show that he has the necessary insurance (liability, etc.) in a company authorized to do business in Kansas. Kansas operators have to file a policy but all that is necessary for out-state operators is that they have an insurance identification card. If he lacks the card or if it is in some company not authorized to do business in the state of Kansas, he will not be allowed to proceed into the state. However, cases of the latter type are rare since practically all

⁴⁷ Personal interview with Floyd Strong.

⁴⁸ See page 22.

insurance companies do business in Kansas.⁴⁹

The repeal of the eighteenth amendment added another job to the ports, and in 1935 the legislature added the inspection and sealing of all liquor cargoes entering the state; the cargoes are again inspected and the seals broken when they leave the state.⁵⁰ Technically, Kansas is a dry state. Hence, it is essential that some agency check to make sure that liquor cargoes passing through the state really pass through. That the ports have made Kansas completely dry is not to be argued, but they may have at least raised the bootlegger's prices. An inspection fee of \$2.50 per truck is charged for the service.

Another duty of the ports is the enforcement of quarantines and regulations of the board of agriculture, entomological commission and grain inspection department. In this respect they operate just as any quarantining agency, refusing to allow agricultural products and livestock, which are suspected of carrying disease, into the state. Few people object to these functions.

Some idea as to the size of the administrative problem can be gained by the fact that in the fiscal year of 1940 some 873,512 trucks passed through the ports. This figure includes trucks licensed in Kansas as well as those not licensed in the state.⁵¹

49 Gibson, op. cit., 14.

50 Ibid., 11.

51 Memorandum, RE: Kansas Ports of Entry, January 24, 1941, In Research Department of the Kansas Legislative Council.

On the financial side the operation of the ports has not proven to be particularly lucrative as is shown by the following table covering the last three years, which are fair enough from the origination of the ports to have established methods.⁵²

Table 9. Comparing revenues deriving from the ports with the cost of operating them.

	1938	1939	1940
Total revenue attributable to the ports	\$575,819	\$604,918	\$688,646
Actual cash collections at ports	183,384	174,884	211,010
Cost of operating the ports	256,663	275,524	309,857

Thus it appears that from a financial viewpoint the ports are fairly successful though they cost more to operate than they actually collect, for the half million odd dollars (if we can accept the official estimations as to the amount of revenue indirectly attributable to them) is not to be taken lightly in a state like Kansas.

However, as has been stated before, state officials maintain that the ports offer a method of regulation of bus and truck traffic which is the best yet to be devised and

⁵² Ibid.

they believe that the regulatory advantages and indiscriminate application of regulations is of itself sufficient argument for the maintenance of the ports.⁵³

⁵³ Personal interviews with Floyd Strong and with Phil Hawkins.

CHAPTER III

LEGAL STATUS OF THE PORTS OF ENTRY

The constitutionality of the Kansas port of entry law has never been questioned before the Supreme Court of United States. In fact its constitutionality has been conceded to such an extent that the United States Attorney General has never been asked for an opinion as to its constitutionality.¹

What is true of the federal government is also true of the state government, and the state Attorney General has never had occasion to inquire into the constitutionality of the law nor has the question ever been presented to the courts of Kansas.²

Undoubtedly if there had been any chance of having the port of entry legislation declared unconstitutional an attempt would have been made since some of the interests opposing the ports are sufficiently powerful to carry a fight through the courts. The failure of these interests to appeal to the courts may be due to the fact that the

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- 1 Letter from Matthew F. McGuire, Assistant to the Attorney General, to the author, June 10, 1941.
 - 2 Letter from Jay S. Parker, Attorney General of Kansas, to the author, June 13, 1941.

recent tendency of the United States Supreme Court has been to designate Congress, not the courts as the proper agency for the regulation and supervision of interstate commerce. This point of view was very ably expressed by Justices Frankfurter, Black, and Douglas in their dissenting opinion in the Dixie Greyhound Bus Case. They held that:

Congress alone can in the exercise of its plenary constitutional control over interstate commerce not only consider whether such a tax now under scrutiny is consistent with the best interests of our national economy but can also on the basis of a full exploration of the many aspects of a complicated problem devise a national policy fair alike to the states and the Union. Diverse and interacting state laws may well have created avoidable hardships--But the remedy, if any is called for, is within the ample reach of Congress.³

Though this opinion was a dissenting one it represents the majority opinion in most of the recent cases. Two examples of these opinions are Madden v. Kentucky (60 Sup. Ct. 406) and McGoldrick v. Berwind-White Coal Co. (60 Sup. Ct. 388). In dissenting with these opinions Chief Justice Hughes said, "We (the Court) have the duty of maintaining the immunity of interstate commerce as contemplated by the Constitution."⁴

The parent cases for the taxation of motor vehicles traveling interstate are Hane v. New Jersey (242 U. S. 160, 1916), and Hendrick v. Maryland, (235 U. S. 610, 1915).

³ McCarroll (Commissioner of Revenues, Arkansas) v. Dixie Greyhound Lines, (60 Sup. Ct. 504-510).

⁴ McGoldrick v. Berwind-White Coal Co. (60 Sup. Ct. 388).

Both of these cases approved small, non-discriminatory licenses and registration fees graduated according to horsepower, if the proceeds from the tax were used for the administration and maintenance of state highways. Both of these cases rested to a large extent on the ground that the charge made was a reasonable one for the service rendered by the taxing state and this reasoning has since been adhered to in most decisions by the Court. This concept has been set forth most clearly in the language of Interstate Transit Co. v. Lindsay, (283 U. S. 183, 1931), in which decision the Court said: "The tax cannot be sustained unless it appears affirmatively in some way that it is levied only as compensation for the use of the highways or to defray the expenses of regulating motor traffic."

In the field of mileage taxes the important case has been Interstate Buses Corporation v. Blodgett (276 U. S. 24, 1928). This case approved a tax of one cent per mile on all interstate carriers traveling on the state highways, the receipts to go to the highway fund. The tax was held valid even though a different method was used for collecting from intrastate carriers, the Court reasoned that unjust discrimination could not be proved by this fact alone.

The McCarroll case, cited above, has also approved a tax levied on gasoline to be used in the state, thus gasoline taxes (such as under the Kansas 20 gallon law) are constitutional.

As far as non-tax regulation of motor carriers is concerned the important case is South Carolina State Highway Department v. Barnwell Brothers (303 U. S. 177, 1938). In this case it was shown that the regulations imposed by South Carolina were unnecessarily restrictive and also that due to the differences in South Carolina and adjoining states they constituted a burden on interstate trade, but in spite of this the regulations were held valid on the ground that they were not so clearly unreasonable as to allow the Court to interfere.

While actual port of entry legislation as such has never been tested before the Court, Dr. W. Y. Elliott of Harvard, an outstanding authority on the subject, points to the fact that the decision in Morf v. Bingham (298 U. S. 407, 1936) casually accepts the existence of the ports, and says, "The nature of the subject matter and the difficulty of collection in any other way probably makes the port-of-entry method immune to attack on constitutional grounds."⁵

So it is evident that not only the ports themselves but also the functions which they perform are considered legal and constitutional by the Supreme Court of the United States.

5 Statement by Dr. W. Y. Elliott before the Temporary National Economic Committee, printed in Hearings of the T.N.E.C., part 29, 16183. For a more complete and very readable summary of the legal aspects see Dr. W. Y. Elliott's testimony before the Temporary National Economic Committee, printed in Part 29 of the Hearings, 16177 to 16192.

CHAPTER IV

REACTIONS TO THE LAW

Generally speaking the reactions to the port of entry law and its operation have been extremes. Those interested have either stoutly defended the law, or have condemned it wholeheartedly. The general public both in Kansas and the nation at large seem to be mostly opposed to it, and this is undoubtedly due in large part to the unfavorable treatment of the law in magazines and newspapers. Many newspaper articles dealing in whole or in part with the port of entry system were examined and it was found that most of them are bitter condemnations of the "Balkanization of America". Also they are, with some exceptions, characterized by an alarming lack of information and the substitution of emotion for scientific investigation.

One of the worst offenders in this respect was an article by Sam Merwin, Jr. which appeared in the Country Home Magazine for August 1939 entitled "Our Billion Dollar Spite Fences". Merwin wrote:

---But listen to what an Oklahoma farmer, accustomed for years to taking his produce to market in the neighbouring state, ran up against.

'I'd never heard about ports of entry', he

told me. Then, one day, I saw a sign that read, "All trucks entering Kansas must register at the port of entry. Penalty \$100 fine." A man in uniform stopped me, asked where I was going. When I told him he informed me that I must pay a tax of $1\frac{1}{2}$ cents a ton-mile.

My truck weighed five tons, and I was going to travel 420 miles in that state. So I coughed up \$31.50 to get in there with my truck for two days. I had to pay \$16 more in gasoline taxes bringing the total to almost \$50 for the trip which neatly cancelled the profits of the journey.¹

On a memorandum to Reynold E. Carlson, Dr. F. H. Guild pointed out where Merwin had erred:

It will be noted that there is a statement in quotation that the farmer said he paid \$31.50 on the trip as stated. The charge would have been only \$3.15 for a commercial truck and not one penny cost to the Oklahoma farmer taking his produce to market.

It is obvious that Mr. Merwin put quotation marks around his own calculations and that these were based on a very hasty reading of the Kansas law.

Kansas does not levy a tax of $1\frac{1}{2}$ cents a ton-mile. There just isn't any such tax.

Mr. Merwin multiplied his five ton weight by 420 miles and then multiplied by $1\frac{1}{2}$ cents. This resulted in a total of \$31.50 as he states, but his calculations had nothing to do with the Kansas law. In the first place, Kansas charges only for the loaded truck to its destination and not for the round trip. Consequently, the commercial truck would have been charged for only 210 miles. Apparently Mr. Merwin didn't understand this. If Mr. Merwin did not understand the law when he read it, he could at least have verified its interpretation and practical administration before coming out with the factual statement which is entirely untrue in its application. As a matter of fact the law is explicit.

1 Sam Merwin, Jr., "Our Billion Dollar Spite Fences", Country Home Magazine, August 1939, 9.

It reads gross weight of vehicle and cargo not exceeding fifteen thousand (15,000) pounds, one and one-half (1½) cents per mile from port of entry station to point of destination or place of leaving the state.

The following statement that the farmer paid '\$16 more in gasoline taxes' may be a fairly good intelligence test to apply to Mr. Merwin's entire article. With a one cent Federal and a three cent Kansas tax on gasoline, he has the farmer stating that he consumer 400 gallons of gasoline on this trip, and since the only mileage he gives is 420 miles, apparently Mr. Merwin would have us believe that it takes about one gallon of gas per mile for a five-ton truck. This, of course, is completely in keeping with his method of calculating the \$31.50 for the ton-mileage tax.

Now bearing in mind that this Oklahoma farmer would not have paid a penny at the port of entry, perhaps you can understand why we feel that some of the published statements are distinctly erroneous.

Of course, this article by Merwin is an example of the worst that has been written, but many other articles and editorials have shown an ignorance of the real situation and an aptitude for intemperate criticism. Take for example, the editorial in Colliers which in commenting on the Kansas governor's orders that the ports and border patrol be as courteous as possible to truckers and motoriste says, "A far better way for Kansas to build good will, of course, would be simply to abolish the port of entry system--that state border scrofula which, if it isn't stopped, will break up this country into a lot of

2 Memorandum, RE: Our Billion Dollar Spite Fences, Article by Sam Merwin, Jr. in Country Home Magazine, August 1939, To: Mr. Reynold E. Carlson, Sept. 5, 1940, In the Research Department of the Kansas Legislative Council.

hostile nations, Balkan style".³

Another example of misinformation in regard to the ports is a front page article in the New York World Telegram, the contents of which may be guessed from the headlines that said, "Inland Kansas Has 66 Ports, All Autos And Trucks Entering Must Stop And Pay Special Taxes".⁴

The magazines and newspapers are not the only sources which have condemned the port of entry system. The National Highway Users Conference, an association of large truckers, has been in the forefront of the opposition to the port of entry law. Two early studies made by this organization were good and fairly objective, in spite of the Conference's well known and admitted hostility to the port of entry system. The first of these was, "The Kansas Port of Entry Law", published in 1934, the other, "State Barriers To Highway Transportation" published in 1938. Though they were fairly objective both of these studies condemned the port of entry system and considered them as barriers to interstate trade. Nor have the National Highway Users been the only ones to condemn the Kansas ports of entry, for it must be remembered that since Kansas was the originator of the system the Kansas law has been the one

3 State Splitters Weakening, editorial in Colliers, August 24, 1940, 108:62.

4 Topeka Daily Capital, Dec. 28, 1939, quoting from the front page of the New York World Telegram.

coming in for the most criticism by the opponents of the idea. A special report, "Barriers To Internal Trade In Farm Products", by the United States Department of Agriculture classified ports of entry as deterrents to interstate commerce mostly because of the delay and trouble in clearing through them. This report also pointed out that the inconvenience will be the greatest for the occasional trucker, and that the ports actually result in the strict enforcement of the state highway and motor laws, hence if the laws are such as to be a burden on interstate commerce, the ports will interfere with interstate commerce in that they will assure a better and more efficient enforcement of these laws.⁵

One of the authors of this report, G. R. Taylor, in an article in "The Agricultural Situation", a department of agriculture publication, classifies the ports of entry as interstate trade barriers and quotes a leading Kansas livestock shipper as saying, "These ports of entry with their resultant formalities have been a decided factor in diverting certain livestock shipments from an interstate haul to an intrastate haul."⁶ A second of the authors, Frederick V. Waugh, writing in Land Policy Review

5 George R. Taylor, Edgar L. Burtis, and Frederick V. Waugh; Barriers to Internal Trade In Farm Products, a special report to the Department of Agriculture, 49-52.

6 George R. Taylor; Barriers To Interstate Trade in The Agricultural Situation, July 1938, 11-13.

says that the ports give dramatic emphasis to the situation, but goes on to point out that other states have just as obnoxious regulations.⁷ Another department of agriculture publication, The Consumer's Interest In State Barriers To Trade, classes the ports of entry with other interstate trade barriers.⁸

Still another vote against the ports was cast by the W. P. A.'s Marketing Laws Survey, "Barriers To Trade Between States" when this government publication classed the ports of entry as interstate trade barriers and said, "When it is remembered that Kansas has 66 such ports, Oklahoma 58, Nebraska 31, and New Mexico 22, one can readily see what practical difficulties result, not only upon motor-vehicle transportation itself, but upon the commodities and products transported."⁹

By far the most vehement protest against the ports so far published has been the National Highway Users bulletin, Ports of Entry and Other Highway Barriers. This publication makes no pretense of objectivity and attacks the ports as a creation of the railroads and an idea that if allowed to continue will break up the Union. Also

7 Frederick V. Waugh; Trade War In The States, Land Policy Review, March-April, 1939, 10.

8 The Consumers' Concern In State Barriers To Trade, Bulletin of U. S. Department of Agriculture, Bureau of Agricultural Economics, Washington, D. C., Nov. 1939.

9 Works Progress Administration, "Barriers To Trade Between States" in The Marketing Laws Survey, 2.

a speech of the "Master" of the Idaho State Grange is quoted in which he says port of entry laws have no place in the American economy and that the farmer is the hardest hit of anyone.¹⁰

In her study of the Kansas system, Miss Gibson reports that she found little or no criticisms of the ports from truck operators,¹¹ and the author found much the same situation. In fact, a majority of them seemed to favor the Kansas system of ports of entry over the system in other states; the chief opponents seemed to be the operators of large out-state truck lines. However, the testimony of the only truck driver to be called before the Temporary National Economic Committee was in opposition to the ports.¹²

Nor have sources outside the state been the only ones criticizing the system. Shortly after the enactment of the Kansas law a joint resolution issued by the Chambers of Commerce of Kansas City, Missouri and of Kansas City, Kansas protested the law claiming that they had suffered a loss of business traceable directly to its operation.¹³

10 Ports of Entry And Other Highway Barriers, National Highway Users Conference, Washington, D. C., Nov. 1939.

11 Fern Gibson, Kansas Ports Of Entry, 16.

12 Temporary National Economic Committee Hearings, Part 29, 16065-16057.

13 Gibson, op cit., 16.

Early in February of 1940 the Kansas State Planning Board went on record against the present system by adopting a report of its highway committee. The board favored a plan to convert the present ports of entry to tourist courtesy stations and said that if the ports must remain then the signs directing trucks and busses to the ports should be reworded to take out an "offensive" phrase about fines and punishments for truck and bus drivers not stopping.¹⁴

Increased opposition to the port of entry system was shown when the state of Oklahoma repealed its law on June 30, 1939. The primary reason for the repeal was that the newly elected governor had run on a platform calling for its repeal and also that the mileage tax was repealed.¹⁵

Not all of the reactions have been unfavorable to the ports of entry, nor would it be correct to say that all the magazine articles on the subject have been lacking in correct information on the subject. One of the notable exceptions was the article "Ports of Entry Increase Trade" by Joseph A. Bussey in the Rotarian. In this article Mr. Bussey points out that the ports were not established to restrict trade or to levy tribute, but were rather an effort to assure that highway users would pay for the use of the highways, and also an attempt to regulate motor

14 Topeka Daily Capital, Feb. 10, 1940, a notation of this article is also on file with the Research Department of the Kansas Legislative Council.

15 Letter to author from J. D. Carmichael; Chairman, The Oklahoma Tax Commission; Oklahoma City, Oklahoma.

traffic.¹⁶ Commenting on the Kansas ports in an article in Sales Management, Phillip Salisbury says, "You can put Kansas down as the victim rather than the aggressor. She had spent millions on two magnificent north-and-south highways--and she, like most other states had a gasoline tax for the service. Gangs of gasoline bootleggers hardly waited for the highways to be completed before they took them over. Almost continuous lines of trucks running bootleg gasoline and oil from Oklahoma refineries roared across the Kansas highways, making some drop shipments to Kansas filling stations without paying the state tax but headed mainly for northern states."¹⁷

Two conferences, one regional and the other national have given Kansas a clean bill of health on her ports of entry. The Western States Trade Barrier Conference held in Denver, Colorado under the auspices of the Colorado State Chamber of Commerce said in its report of committee on transportation:

Be it resolved that this conference go on record as endorsing the operation of Ports of Entry in the several western states represented until such time as a better or more economical system be devised for collecting taxes justly levied against interstate and intrastate operators alike for the maintenance and construction of highways.

Represented on the committee making this report were the states of: South Dakota, Kansas, New Mexico, Nevada, Utah,

16 Joseph A. Bussey, "Ports Increase Trade", Rotarian, November 1939, 60-61.

17 Phillip Salisbury, Sales Management, May 15, 1939, 24.

Wyoming, Colorado, North Dakota, Texas, and Oklahoma.¹⁸ Attention was also given to the ports of entry at the National Conference on Interstate Trade Barriers held in Chicago in 1939. The report of the Committee on Agriculture said:

Ports-of-entry such as are in use in the several states for the purpose of enforcing motor vehicle codes within the state and of regulating traffic entering the state, when used for the purpose of enforcing safety regulations in the interest of the public, or collecting taxes for road building purposes and the maintenance thereof, and when not discriminatory as against the out-of-state vehicle are deemed to interfere with the free movement of goods between the states only so far as they cause inconvenience and consume time. Reasonable inspection for safety purposes can hardly be classified as an interference with trade relations between the states. There is a close relation between the use of ports-of-entry to enforce the collection of tax from out-of-state trucks and the use of highway patrols for the same purpose, and it appears that either might be equally condemned if¹⁹ used to discriminate in favor of local operators.

The reaction of some politicians in Kansas has been very interesting. In answer to a query from the author, which he evidently took for evidence that the author was in opposition to the ports, one Kansas politician (Republican) said, "I am not certain, but I believe the port of entries were set-up during the Huxman administration, and naturally for the purpose of creating more state appointive jobs aids during any campaign." Actually, of course, the

18 Report of The Committee On Transportation, Western States Trade Barrier Conference, Denver, Colorado; September 28 and 29, 1939, 1.

19 Proceedings, The National Conference On Interstate Trade Barriers, April 5, 6, and 7; Chicago, Illinois, 102.

ports were set up during the administration of Landon, a Republican, instead of Huxman, a Democrat.²⁰ This gives some slight indication of everyone's willingness to use the ports as a political football, as does the fact that every session of the state legislature since the passage of the law has been faced with a proposal for its repeal. The fact that none of these attempts have been even partially successful would seem to indicate that the interested parties have not found the law too obnoxious.

A letter from a secretary of state of a western state to the author shows very well the attitude of certain state officials, particularly in the west. Because of his request that his name not be used, since it could possibly have political reverberations, it cannot be revealed. He says very frankly in regard to his state's policy, "This state trusts to good luck that we may catch up with them some place on the highways as they pass through." Furthermore he says:

...from a practical standpoint the "port of entry" is the most efficient and causes the trucker the least inconvenience of any method of collecting fees on interstate trucks. You will understand that by any other system the trucker does have the chance or the possibility of passing through the state or through part of it without paying these fees. You will understand further, I am sure, that this great Nation-wide movement to remove trade barriers, meaning in this instance "ports of entry" primarily is sponsored by the highway users association which is the Truckers Organization.

²⁰ Letter from W. F. Kohlmeyer (State Rep. of the 45th district) to the author, June 11, 1941.

Nebraska officials also seem to feel that their law is a success. J. A. Ainlay says, "...we find that the Port of Entry system has materially assisted us in the collection of our gasoline tax, and since we do not prohibit the movement of trucks between states through our Port of Entry law, we do not consider them as being trade barriers."²¹ However, officials of eastern states seem to feel that the ports are trade barriers, and that unless more reciprocity is granted, the federal government will step in and nationalize the highway system.

Kansas officials and citizens who have defended or tried to explain the port of entry system have at times run into rather stubborn opposition. For example, C. E. Burton, who has interested himself in the law considerably, relates:

One evening, I happened to tune-in on a New Orleans broadcast and I heard the head of one of the departments at Loyola tell some terrible things about our Ports of Entry. I wrote him a polite inquiry and he seemed quite happy to tell me how misguided Kansas lawmakers have been. Then I placed some facts before him and I could not even get him to acknowledge the letter, a dozen others, ditto.²²

All in all it would seem that the reaction to the ports has not been very adverse, particularly among those who are most interested, and who are best informed

21 John Ainlay, Chief, Division of Motor Fuels, Lincoln, Nebraska.

22 Letter from C. C. Burton to author, April 28, 1941.

as to their purpose and operation. However, Kansas has received considerable unfavorable publicity because of the ports and probably the great majority of "men on the street" oppose them.

CHAPTER V

CONCLUSIONS

The first important question which must be answered in reaching any conclusion in regard to the Kansas ports of entry is whether or not these ports constitute a trade barrier. The Tax Policy League in planning a symposium on "Tax Barriers To Trade" held at Palmer House, Chicago, Dec. 23, 1940 suggested the following definition:

A tax barrier to trade is any form of taxation or administration which tends to interfere with the normal flow of trade across city, state, or national boundaries. It is recognized that almost any tax will have some effect upon trade, but attention will be directed in this symposium to those taxes that have a direct restrictive effect upon the movement of goods across governmental boundaries.¹

Governor Stark of Missouri, who has been one of the leaders in the fight against trade barriers, has said much the same thing in a speech before the Trans-Missouri-Kansas Shippers Board. He said:

Many of these regulations (of interstate commerce) are perfectly legitimate and serve a useful purpose. ...The Committee on Taxation

1 "What Are Tax Barriers To Trade" in leaflet Taxes For Democracy published by the Tax Policy League, memorandum in Research Department of the Kansas Legislative Council.

recommended (at Chicago Conference on Interstate Trade Barriers April 1939), I quote, 'The out-of-state users be taxed at no higher effective rate for the use of public highways of the taxing state than is imposed on domestic carriers of that state. A parity should be established between domestic and non-resident users of highways, no matter whether gasoline tax, license, ton-mile, or combination of such tax is utilized!' That recommendation is fair enough. It presumes that domestic truckers will not have imposed upon them a trade barrier tax, and therefore out-of-state truckers taxed on the same basis will not be discriminated against. ...we must guard against condensing unnecessary trade barriers which hamper business with those reasonable taxes and fees which every form of private enterprise is called upon to contribute to the operations of county, state, and federal government.²

Accepting these definitions and also the findings, mentioned in a previous chapter, of the conferences that have been held on the subject, one is almost forced to the conclusion that the Kansas ports of entry are not trade barriers. Kansas vehicles pay the same sort of taxes as do the interstate vehicles and from the evidence available it seems that a sincere effort has been made to gauge the ton-mile taxes so that they are fair to all concerned. Also there can be little justifiable complaint because of the ports efficient enforcement of Kansas safety laws. If the laws are unjust they themselves are at fault and not the agency that enforces them. Kansas ports of entry may

2 Excerpt from speech on Trade Barriers by Governor Stark of Missouri before Trans-Missouri-Kansas Shippers Board, Memorandum on file with Research Department of the Kansas Legislative Council.

be obnoxious but they are hardly trade barriers.³

Floyd Strong maintains that the thing back of the fight against the ports is the controversy over whether ton-mile taxes are desirable or not, and Dr. Guild is of the same opinion.⁴ From the other side of the fence comes similar evidence for in the report "The Kansas Port of Entry Law" the truckers association writer makes the statement, "Involved in the whole Port of Entry idea is the question of the soundness of the ton-mile tax."⁵ This argument is an old one and on one side are the persons who maintain that the gasoline tax is enough to equalize the highway maintenance burden, on the other those who say that large commercial vehicles operating for profit should pay an additional tax based on their size. The people, who hold this view, point out that while a five ton truck may use three or four times as much gasoline as a passenger car it will cause many times that amount of damage to the highways. Thus, if the burden is not equalized in some way, we have what amounts to the state taxing one group of citizens (the operators of passenger

3 Personal interview with Floyd Strong and Dr. Guild.

4 Note: Discrimination was made at first in that trucks carrying Kansas products out of Kansas were tax free. This has since been changed by administrative agreement so that all are treated alike.

5 The Kansas Port of Entry Law, 14.

cars) for the enrichment of another group (the truckers and bus operators).

There is also the problem of motor carrier regulation. If carriers are not to be regulated by ports or some similar agency, then how is it to be done? Mr. Strong says that the ports have provided an efficient and fair method, but that some operators have complained simply because they do not desire any sort of regulation. He points to the railroads and their distaste for government interference in their early years of operation and draws a parallel with the trucking industry which is new and still not used to regulation. He frankly admits that the port of entry system is not perfect and says that it represents merely an effort to find a satisfactory solution to the problem. Asked whether he favored extension of the system to all the states, he said yes. The idea back of this is that if all the states had ports, a truck could clear out of its home state clear through to its destination, and would pass through the ports of other states by presenting stubs or some similar evidence of its clearance. States could then have periodic reckonings of financial matters. Such a system on a national basis would, Mr. Strong believes, solve many of the present problems of regulating the motor industry.⁶

6 Personal interview with Floyd Strong.

If a port system is not used in the regulation of truckers, then periodic checking must be substituted. This method is in a way discriminatory since the operator who is caught is forced to comply with the law while the one who gets by is not.

A consideration of the utmost importance is what sort of system should be substituted for the ports of entry if they are to be abolished. A study of the systems used in other states is included in the Appendix of this study. The states may roughly be divided into two groups--those who attempt to tax out-state users of their highways and those who do not, with the former in the majority. No satisfactory classification of the states can be made since their systems vary so widely but there are several general methods employed.

One method which must be ruled out from the start is going back to no regulation. The motor carrier industry has expanded too much and the need of regulation is too obvious for this method to even merit consideration.

A second method which has been upheld by many persons is complete reciprocity, that is; each state would honor the motor carrier licenses of every other state. This is the plan advocated by the National Highway Users conference.⁷ However, there are certain considerations

⁷ See Ports of Entry And Other Highway Barriers, published by National Highway Users Conference; and also letter to author from Yule Fisher; Legislative Department, Highway Users Conference; Washington, D. C., June 16, 1941.

that must be noticed. A glance at Plate II will show that the port of entry idea has been adopted only in states west of the Mississippi, in regions where a sparse population must maintain highways across wide areas. Kansas, for example, maintains the second largest per capita highway mileage in the nation and her position in the geographic center of the continent means that a constant procession of out-state trucks use her highways as a thoroughfare. In view of this fact, it is hard to see how true reciprocity can be established between states with large area, small population and few trucks in interstate commerce; and states with small area, large population and many trucks in interstate commerce. The fact that reciprocity is not complete even where it exists theoretically is borne out by the statement of A. H. Martin, Jr., Director of the W. P. A. Marketing Laws Survey: "While it is true that reciprocity in one form or another, is provided for in the laws of some 41 states, only nine states grant complete reciprocity."⁸ The situation is that while densely populated states can afford reciprocity, sparsely populated ones cannot.

Another method advocated by some is that the ports should be abolished and their purposes served by temporary ports or inspection on the highways of the state.

8 Mime Release, Summary of Testimony Submitted To The Temporary National Economic Committee by Mr. A. H. Martin, 10.

EXPLANATION OF PLATE II

Distribution of Ports of Entry throughout the United States.
(From State Trade Barriers to Highway Transportation, p. 4).



Ports of Entry

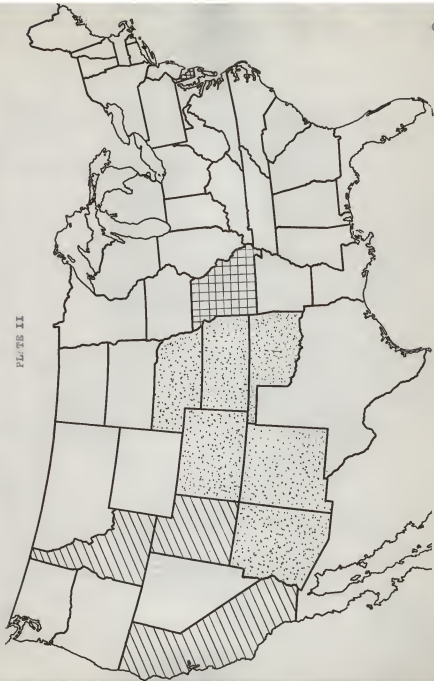


Inoperative Law



Border Checking Stations

PLATE II



This would not remove the main points of objection but would only serve to lessen the efficiency of the enforcement of the law.

Several state officials and others have foreseen national intervention if the port system and other barriers are not abolished.⁹ The opinion of one student of the question, Herbert H. Nexon (assistant to Dr. Elliott) is that this is perhaps the best solution. He favors action by the national government which would not merely restrict the action of the state but would provide some substitute for them.¹⁰ Perhaps national action may be the answer, but it will involve further infringement on state's rights and sovereignty.

Financially, the ports have been relatively successful as was pointed out in chapter two. Although they do not take in enough revenue directly to cover the cost of operation, the increased revenues indirectly attributable to them are in the neighbourhood of a half-million dollars a year.

Thus, in concluding the study, one might say that while the port of entry system may have many undesirable features it is probably best that Kansas keep it at least until something as good is found. In the meantime, serious

9 Letters to author from Edward J. Hughes, Sec. of State, Springfield, Illinois, June 9, 1941; and Lynn Munshaw, Examiner, Public Service Commission, Lansing, Michigan, July 18, 1941.

10 Letter to author from Hubert H. Nexon, May 21, 1941.

efforts should be made to improve its operation. Also a campaign should be launched to inform interested parties as to the true facts of the system, and to correct many of the misunderstandings which are now abroad.

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APPENDIX

A comparison with other states shown by short briefs of letters and other materials explaining their methods.

Alabama

Interstate carriers are subject to the same regulations as intrastate carriers. Before entering the state carriers must purchase a carrier plate (\$1.00) and must post bond to guarantee payment of the mileage tax of one-fourth cent per mile. Periodic checks are made by the Highway Patrol and violators of the law are subject to criminal prosecution.¹

Arizona

Non-resident trucks must either register in Arizona or secure non-resident permits for 1, 2, or 3 months. These permits cost respectively 10, 20, and 30 per cent of the registration fee. Only one permit will be issued

1 Letter to author from L. E. Rogers; Chief, Mileage Tax Division; State Department of Revenue; Montgomery, Alabama, June 19, 1941.

to any truck in the same year.²

Taking advantage of an increase in the number of highway patrolmen in 1933, the state of Arizona has since then operated what amount to ports of entry without a port of entry law, a proposed law was tabled by the 1933 legislature. Six stations have been established where fees are collected, vehicles inspected, etc., all without benefit of definite legislation.³

Arkansas

Has reciprocity arrangement. Others pay same fees as Arkansas trucks excepting farmers, truckers from neighbouring states, itinerate truckers, and occasional trip vehicles which are not for hire.⁴

California

Reciprocity, other vehicles must pay same fees as California vehicles. Must secure a \$5.00 annual permit and quarterly pay 3 per cent of the sum of the gross business realized from contract hauling within the state.⁵

2 Letter to author from E. H. McAhren; Supt. Motor Vehicle Division, Arizona Highway Department, June 20, 1941.

3 Fern Gibson, Kansas Ports of Entry, 4.

4 Barriers To Trade Between States, W. P. A. Marketing Laws Survey, 4.

5 Letter to author from Howard E. Deems, Registrar of Vehicles, Sacramento, California, June 23, 1941.

California was one of the first states to establish quarantine stations for inspection of agricultural products. In 1927 the Motor Vehicles Department placed inspectors in these stations to aid in the enforcement of the provisions of the state Motor Vehicle Act. However, these inspectors were removed shortly after the passage of the Kansas bill. At present these stations are little more than tourist information bureaus.⁶

Colorado

Non-residents are subject to the same fees as residents - no reciprocity.⁷

Colorado operates a system in which both fixed and movable ports are used. Only about a dozen ports altogether are operated. They check on about the same things as the Kansas ports.⁸

Connecticut

Each vehicle operating for hire must secure a license costing \$5.00 per year - no other charge.⁹

6 State Barriers To Highway Transportation, 17-18.

7 W. P. A. Survey, 5.

8 State Barriers To Highway Transportation, 17-18.

9 Letter to author from J. V. Parmele, Supt., Public Utilities Commission, Hartford, Connecticut, July 14, 1941.

Delaware

No charge is made on out-state vehicles.¹⁰ Delaware has had a port of entry law on the books since 1935, however, it contains a provision that makes it inoperative until similar laws have been enacted by two bordering states, it may then be put in operation by executive proclamation.¹¹ If out-state trucks are operated on regular schedule or for consecutive period of more than 30 days, they must pay the same fees as resident for hire truckers.¹²

Florida

Reciprocity. Carriers operating from non-reciprocal states must pay one cent per mile mileage tax.¹³

Georgia

Non-residents may make two free trips per month into the state, if they make more they must pay regular Georgia

10 Letter to author from Geo. S. Williams, Commissioner, Motor Vehicle Department; Dover, Delaware, June 24, 1941.

11 Gibson study, 6.

12 W. P. A. Survey, 5.

13 Letter to author from George L. Patten, Secretary Florida Railroad Commission, June 24, 1941.

fees. Non-resident farmers are exempt and those handling seasonal products are exempt for ten trips.¹⁴

Idaho

Reciprocity, may have four 3-day permits a year or a special 30-day permit for one-fifth regular fee.¹⁵ A special fee of \$5.00 is also charged for each vehicle that is towed.¹⁶ Six ports of entry in the Idaho panhandle are active in inspection, in collecting license fees from states not having reciprocity with Idaho, and even in registering passenger cars. Idaho has no mileage tax to go with her ports of entry.¹⁷

Illinois

Reciprocity, except to non-residents doing business within the state, they must pay regular fee.¹⁸

Indiana

Reciprocity, except for trucks traveling on regular

14 W. P. A. Survey, 6.

15 Ibid.

16 Letter to author from George Curtis, Secretary of State, Boise, Idaho, June 1, 1941.

17 State Barriers To Highway Transportation, pp. 18.

18 Letter to author from Edward J. Hughes, Secretary of State, Springfield, Illinois, June 9, 1941.

routes.¹⁹

Iowa

No charge unless engaged in intrastate hauling for hire, then the same as for Iowa trucks.²⁰

Kentucky

Reciprocity, vehicles from other states must register.²¹

Louisiana

Reciprocity, depends more upon gasoline taxes which are high than upon registration fees, which are low, for highway maintenance.²²

Maine

Non-resident trucks must register. Trucks of under one and one-half tons are exempt if not owned by a foreign

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- 19 Letter to author from L. Hewitt Carpenter, Executive Secretary, Commission On Interstate Cooperation, June 20, 1941.
 20 Letter to author from Ray Spatz, Assistant Supt., Department of Public Safety, June 16, 1941.
 21 Letter to author from William Blanton, Director, Division of Motor Transportation, Frankfort, Kentucky, June 14, 1941.
 22 Letter to author from Harry B. Henderlite, Chief Engineer, Department of Highways, Baton Rouge, Louisiana.

corporation.²³

Maryland

Reciprocity, others need not register or obtain special permits except in the case of common and contract carriers.²⁴

Massachusetts

Registration fee the same for state and interstate commerce. Thirty-day operation without registration permitted to trucks from states granting the same privilege. After thirty-day period insurance provisions must be complied with and special permits secured.²⁵

Michigan

Highway reciprocity board authorized to make reciprocity agreements. If no reciprocity agreement exists the fee is the same for out-of-state trucks unless operated for less than ten days and over regular routes or within fixed termini.²⁶

23 Letter to author from Frederick Robie, Secretary of State, Augusta, Maine, June 24, 1941.

24 Letter to author from William F. Childs, Jr., Director State Road Commission, Baltimore, Maryland, July 8, 1941.

25 W. P. A. Survey, 9.

26 Letter to author from Robert E. Hollisway, Secretary, Public Service Commission, Jefferson City, Missouri, June 12, 1941.

Minnesota

Reciprocity for vehicles not operating for hire, exemption for vehicles carrying only agricultural products. In absence of reciprocity fees the same for out-of-state and domestic trucks, with operator having choice of registering to pay on gross weight or on a ton-mile basis.²⁷

Mississippi

Commissioner may make reciprocal agreements. Temporary permits on mileage tax basis may be issued (15 to 30 mills per mile).²⁸

Missouri

After filling out a detailed form an operator is allowed to enter Missouri once a month, for more frequent operation fees of from \$25 (for 1½ ton truck) to \$500 (for more than 9 tons) are charged. Missouri legislature passed a port of entry law in 1935, but it has never been put in operation.²⁹

27 Letter to author from Robert E. Holliday, Secretary, Public Service Commission, Jefferson City, Missouri, June 12, 1941.

28 W. P. A. Survey, 10.

29 Letter to author from Robert E. Holliday, Secretary, Public Service Commission, Jefferson City, Missouri, June 12, 1941.

Montana

Reciprocity agreements may be made by Registrar of Motor Vehicles. All vehicles operating for compensation in the state must register and pay the same fees as domestic vehicles. Gasoline taxes (five cents per gallon) are the only funds used for the construction and maintenance of highways in the state.³⁰

Nebraska

Reciprocity, to others the same fees as charged to Nebraska vehicles. Nebraska has a port of entry for the checking of gasoline imports only.³¹ However, the other functions common to ports everywhere are gradually being assumed by them.

Nevada

Reciprocity agreements may be made with other states. Otherwise, out-state carriers pay the same fees as domestic.³²

30 Letter to author from Scott P. Hart, Maintenance Engineer, Highway Commission, Helena, Montana, June 16, 1941.

31 Letter to author from John A. Ainley, Chief, Division of Motor Fuels, Lincoln, Nebraska, June 9, 1941.

32 Letter to author from Malcolm McEachin, Commissioner, Division of Motor Vehicles, Carson City, Nevada, June 17, 1941.

New Hampshire

Unless under reciprocity, non-resident vehicles subject to permit fee in addition to registration fee. Out-state trucks under three tons may operate twenty days a year without registering if under reciprocity, if over three tons they must register but may operate five days in the year.³³

New Jersey

Full reciprocity is extended to all non-residents. New Jersey adopted a truck mileage tax in 1927, but it was declared unconstitutional in 1928.³⁴

New Mexico

Has a port of entry law modeled on Kansas' but more comprehensive in scope. In addition to the functions performed by the Kansas ports, the New Mexico ports also assist the state game commission, the state tourist bureau, the state livestock commission, the state police, and the vehicle department in a number of ways.³⁵

33 W. P. A. Survey, 11.

34 Letter to author from A. W. Magee, Commissioner of Motor Vehicles, Trenton, New Jersey, July 1, 1941.

35 Gibson study, 3.

New York

Reciprocity, unless the trucks operating in intra-state business. Grant same privilege as home state. Gasoline tax of four cents is supposed to equalize the highway maintenance burden.³⁶

North Carolina

Grants full reciprocity. State officials feel that perhaps the state loses revenue, but think it is worth it.³⁷

North Dakota

Non-resident, for hire vehicles must either obtain license in the state or pay the state road tax. Private vehicles may operate for thirty days without obtaining state license plates.³⁸

Ohio

Non-residents must register and pay the same tax as

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- 36 Letter to author from Howard W. Connolly, Asst. Commissioner, Department of Taxation and Finance, Albany, New York, July 1, 1941.
- 37 Letter to author from R. R. McLaughlin, Director, Motor Vehicle Bureau, Raleigh, North Carolina, June 20, 1941.
- 38 Letter to author from David Eslinger, Director, Auto Transportation, Bismarck, North Dakota, June 27, 1941.

residents unless operating under reciprocity.³⁹

Oklahoma

Oklahoma formerly operated a port of entry system modeled closely after that of Kansas and having 58 ports. This and also the mileage tax have since been repealed, but Kansas officials maintain that sentiment is strong in Oklahoma for the reestablishment of the ports of entry.⁴⁰

Oregon

Both Oregon and out-state truckers are required to obtain license and pay mileage taxes. Certain exceptions, farmers, state trucks, etc. are made.⁴¹

Pennsylvania

Reciprocity, an excise tax on gross receipts for truckers from states not granting reciprocity. Pennsylvania in the early '30's enacted a law requiring all out-

39 W. P. A. Survey, 13.

40 State Barriers To Highway Transportation, 11; also letter from J. D. Carmichael.

41 Letter to author from Ormond R. Bean; Commissioner of Public Utilities; Salem, Oregon, June 24, 1941.

state trucks and busses to stop and register under Pennsylvania laws, but the resultant confusion and the reprisals from surrounding states brought about its repeal.⁴²

Rhode Island

Reciprocity, a road use tax is collected, however. Vehicles from non-reciprocal states must register.⁴³

South Carolina

Depends upon a high gasoline tax for most of the highway maintenance, no requirements for out-state trucks.⁴⁴

South Dakota

Regular operators must comply with the license plate laws. On exclusively interstate operation the fee is two cents per ten-mile. Where property is being transported a fee ranging from \$20 to \$250, depending on load, must be paid. One free permit is issued to any motor

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- 42 Letter to author from W. Bearright Stuart, Director of Motor Vehicles, Harrisburg, Pennsylvania, July 7, 1941.
 43 Letter to author from Allen E. Hawkes, Director of Research, Providence, Rhode Island, July 3, 1941.
 44 Letter to author from J. S. Williamson, Chief Highway Commissioner, Columbia, South Carolina, June 23, 1941.

carrier. There is no port of entry system to enforce these conditions - it is "catch as catch can".⁴⁵

Tennessee

Non-resident fees the same as resident fees. Vehicles operating within thirty miles of the state line may secure temporary permits at a cost of 1½ cents per ten-mile.⁴⁶

Texas

Reciprocity, others must register the same as Texas trucks, but may make two trips per month without so doing.⁴⁷ Texas operates highway stations to distribute tourist information only.⁴⁸

Utah

Out-state operators must have Utah license. Operators from states having reciprocity with Utah may operate sixty days in the state without a license, from other states, they may make four free trips. Utah does operate checking

45 Letter to author from E. S. Goff, Assistant Motor Director; Pierre, South Dakota, June 16, 1941.

46 Letter to author from L. N. Meane, Office Engineer, Dept. of Highways, Nashville, Tennessee, June 19, 1941.

47 Letter to author from D. C. Greer, State Highway Engineer, Austin, Texas, July 3, 1941.

48 State Barriers To Highway Transportation, 19.

stations.⁴⁹

Vermont

Reciprocity, vehicles over 3,000 pounds and those operating for more than reciprocity period must register.⁵⁰

Virginia

Reciprocity, has a ten-mile tax. Operators are given a choice of several methods of paying this tax, non-reciprocity vehicles must register.⁵¹

Wyoming

Fees much like Kansas, but no ports. Highway Patrol does the checking.⁵²

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- 49 Letter to author from E. G. Foxley, Director, Motor Vehicle Department; Salt Lake City, Utah, June 17, 1941.
 50 Letter to author from K. L. Ellsworth; Deputy Commissioner, Motor Vehicle Department, Montpelier, Vermont, July 1, 1941.
 51 Letter to author from C. F. Joyner, Jr., Assistant Director, Division of Motor Vehicles, Richmond, Virginia, June 18, 1941.
 52 Letter to author from Lester C. Hunt; Secretary of State, Cheyenne, Wyoming, June 14, 1941.